

DEVELOPMENT REVIEW COMMITTEE

Tuesday, March 25, 2014

AGENDA

The Monroe County Development Review Committee will conduct a meeting on Tuesday, March 25, 2014, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

- DRC MEMBERS:
- Townsley Schwab, Senior Director of Planning and Environmental Resources
 - Mike Roberts, Sr. Administrator, Environmental Resources
 - Joe Haberman, Planning & Development Review Manager
 - DOT Representative
 - Steve Zavalney, Captain, Fire Prevention
 - Public Works Department Representative

- STAFF MEMBERS
- Christine Hurley, Growth Management Division Director
 - Jerry Smith, Building Official
 - Mayte Santamaria, Assistant Planning Director
 - Mitch Harvey, Comprehensive Plan Manager
 - Rey Ortiz, Planning & Biological Plans Examiner Supervisor
 - Emily Schemper, Sr. Planner
 - Barbara Bauman, Planner
 - Matt Coyle, Sr. Planner
 - Karl Bursa, Planner
 - Gail Creech, Sr. Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL:

MEETING

New Item:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 101-1, DEFINITIONS, AMENDING SECTION 114-19, LIVE-ABOARDS, AMENDING SECTION 138-19,

AGENDA

RESIDENTIAL RATE OF GROWTH ORDINANCE (ROGO), REVISING PROVISIONS ADDRESSING LIVE-ABOARD VESSELS, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2014-025)

[2014-025 FILE.PDF](#)

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

ADJOURNMENT

File #: **2014-025**

Owner's Name: Longstock II, LLC

Applicant: Longstock II, LLC

Agent: Barton Smith, Esq.

Type of Application: LDC Text Amendment

Key: N//A

RE: N//A

Additional Information added to File 2014-025

County of Monroe

Growth Management Division

Office of the Director
2798 Overseas Highway
Suite #400
Marathon, FL 33050
Voice: (305) 289-2517
Fax: (305) 289-2854



Board of County Commissioners

Mayor Sylvia Murphy, Dist. 5
Mayor Pro Tem Danny L. Kolhage, Dist. 1
Heather Carruthers, Dist. 3
David Rice, Dist. 4
George Neugent, Dist. 2

We strive to be caring, professional, and fair.

Date: 2.19.14
Time: _____

Dear Applicant:

This is to acknowledge submittal of your application for Text Amendment LDC
Type of application

Longstock II, LLC to the Monroe County Planning Department.
Project / Name

Thank you.

Gail Creech

Planning Staff

End of Additional File 2014-025

**MONROE COUNTY, FLORIDA
PLANNING AND ENVIRONMENTAL RESOURCES DEPARTMENT**



RECEIVED

FEB 19 2014

MONROE CO. PLANNING DEPT

Land Development Code Text Amendment Application

Application Fee:
\$5,041.00 (*required*)

Advertisement Fee:
\$245.00 (*required*)

Surrounding Property Owner Notification Fee:
\$3.00 per each property owner (*only applicable if amendment affects specific and defined area*)

Submittal Date: February 19, 2014

Applicant/Agent Authorized to Act for Applicant:

Longstock II, LLC

Barton W. Smith, Esq.

Applicant (Name of Person, Business or Organization)

Name of Contact Person/Agent

138 – 142 Simonton Street, Key West, Florida 33040

Contact Person/Agent Mailing Address (Street, City, State and Zip Code)

(305) 296-7227

bart@smithoropeza.com

Contact Person/Agent Phone #

Contact Person/Agent Email Address

Section(s) of Land Development Code Affected: 101-1, 114-19, 138-19

Pursuant Section 102-158 of the Land Development Code, the Board of County Commissioners may adopt an ordinance enacting a text amendment to the Land Development Code only if the change is based on one or more of the following factors. Please describe how one or more of the following factors shall be met (attach additional sheets if necessary):

- 1) Changed projections (e.g. regarding public service needs) from those on which the text was based:**

See attached.

- 2) Changed assumptions (e.g. regarding demographic trends):**

See attached.

- 3) **Data errors, including errors in mapping, vegetative types and natural features described in [the Comprehensive Plan Technical Document]:**

See attached.

- 4) **New issues:**

See attached.

- 5) **Recognition of a need for additional detail or comprehensiveness:**

See attached.

- 6) **Data updates:**

See attached.

In no event shall an amendment be approved which will result in an adverse community change of the planning area in which the proposed development is located. Please describe how the text amendment would not result in an adverse community change (attach additional sheets if necessary):

See attached.

* * * * *

All of the following must be submitted in order to have a complete application submittal:
(Please check as you attach each required item to the application)

- ☒ Completed application form
- ☒ Applicable fees (check or money order to Monroe County Planning & Environmental Resources)
- ☒ Existing text of Land Development Code section(s) affected
- ☒ Proposed amendment(s) to text of Land Development Code section(s)
- ☒ Written analysis as to how the proposed amendment is consistent with the applicable provisions of the Comprehensive Plan and the Principles for Guiding Development for the Florida Keys

If applicable, the following must be submitted in order to have a complete application submittal:

- ☐ Agent Authorization form (*required if application is submitted on behalf of another party*)
- ☐ Disclosure of Interest form (*required if application affects specific and defined area*)

- ☐ Sealed Boundary Survey, prepared by a Florida registered surveyor – eight (8) sets (*required if application affects specific and defined area*)
- ☐ Typed mailing labels (name and address) of all property owners within 300' of the boundaries of the affected property (*required if application affects specific and defined area*)
- ☐ 300' Radius report, prepared by the Monroe County Property Appraiser's Office (*required if application affects specific and defined area*)
- ☐ Traffic Study, prepared by a licensed traffic engineer (*required if application affects specific and defined area*)
- ☐ Transportation fee of \$5,000 to cover the cost of experts hired by the Growth Management Division to review the traffic study (any unused funds deposited will be returned upon permit approval) (*required if application affects specific and defined area*)

If deemed necessary to complete a full review of the application, within reason, the Planning & Environmental Resources Department reserves the right to request additional information. Additional fees may apply pursuant to the approved fee schedule.

* * * * *

By signing this application, the Applicant certifies that he or she is a person who is familiar with the information contained in the application, and that to the best of his or her knowledge such information is true, complete and accurate.

Signature of Applicant: _____

State of Florida, County of Monroe

The foregoing instrument was acknowledged before me this 19th day of February, 2014, by Barton W. Smith. He/she is personally known to me or has produced _____ as identification.



Madison Fallon
Notary Public
My Commission Expires

Please submit or send the application package to:
Planning Commissioner Coordinator
Monroe County Planning & Environmental Resources Department
2798 Overseas Highway, Suite 400, Marathon, FL 33050

Barton W. Smith, Esq.
Managing Partner

SMITH | OROPEZA, P.L.

Patrick Flanigan, Esq.

Gregory S. Oropeza, Esq.
Partner

Richard McChesney, Esq.

138-142 Simonton Street
Key West, Florida 33040
Telephone : (305) 296-7227
Facsimile : (305) 296-8448

February 19, 2014

Townsley Schwab
Monroe County Planning and Environmental Resources Director
2798 Overseas Hwy, Suite 400
Marathon, FL 33050

Re: Text Amendment

Dear Mr. Schwab:

Please allow this letter to serve as additional information submitted in support of Longstock II, LLC's text amendment application.

I. REQUEST

This text amendment application ("Amendment") amends several sections of Monroe County's land development regulations. The purpose of the amendment is to amend Monroe County's Code to eliminate upland density that is attributable to vessels capable of navigation under their own power and not primarily used as a residence from contributing density to a property's uplands for development purposes. The basis for the Amendment is to parallel Florida Statutes which would count upland density solely for floating structures and houseboats that are incapable of navigation and primarily used as a residence and consequently must evacuate by vehicle.

II. BACKGROUND INFORMATION

Amendment Application Background:

Monroe County's Land Development Regulations ("LDRs") defines a live-aboard vessel as "any vessel used solely as a residence or any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. A commercial fishing boat is expressly excluded from the term "live-aboard vessel."

Monroe County LDR Section 114-19 states that "Live-aboards shall be hooked up to an on-land sewage disposal system or shall be provided with onshore sanitary facilities and each live-aboard shall count as a dwelling unit for the purposes of calculating density limitations in the district in which it is permitted.

Monroe County LDR Chapter 138 governing Monroe County's Residential Building permit allocations defines a dwelling unit as follows:

“Residential dwelling unit means a dwelling unit as defined in section 101-1, and expressly includes the following other terms also specifically defined in section 101-1: rooms, hotel or motel, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) and live-aboard vessels.”
Emphasis added.

The current LDRs parallel the prior version of Chapter 327.02 Florida Statutes (1994) which defined a live-aboard as “(a) Any vessel used solely as a residence or (b) Any vessel represented as a place of business, a professional or other commercial enterprise.” See Florida Statute §327.02 (1994). The original state definition of a live-aboard was adopted as part of the Florida Clean Vessel Act legislation in 1994, Fla. Law. Ch. 94-241, which also defined floating structures, houseboats and providing for marine sanitation devices. The Florida Clean Vessel Act required certain vessels, including live-aboards, houseboats and floating structures to be equipped with sanitation devices to protect Florida waters.

However, Florida Statutes §327.02 was amended in 2009 to read as follows:

“327.02. Definitions of terms used in this chapter and in chapter 328.

As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(17) “Live-aboard vessel” means:

(a) Any vessel used solely as a residence and not for navigation; ~~or~~

(b) Any vessel represented as a place of business, or a professional or other commercial enterprise; ~~or~~

(c) Any vessel for which a declaration of domicile has been filed pursuant to s. 222.17 ~~a legal residence.~~

A commercial fishing boat is expressly excluded from the term ‘live-aboard vessel.’”

See Fla. Laws Chap. 2009-86

As part of this amendment, the Florida Legislature also amended Fla. Stat. 327.60 as follows:

“327.60. Local regulations; limitations

(1) The provisions of this chapter and chapter 328 ss. ~~327.01, 327.02, 327.30 327.40, 327.44 327.50, 327.54, 327.56, 327.65, 328.40 328.48, 328.52 328.58, 328.62, and 328.64~~ shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waters of this state waterways or when any activity regulated hereby shall take place thereon.

(2) Nothing in this chapter or chapter 328 ~~these sections~~ shall be construed to prevent the adoption of any ordinance or local regulation law relating to operation and equipment of vessels, except that a county or municipality shall not enact, continue in effect, or enforce any ordinance or local regulation:

(a) Establishing a vessel or associated equipment performance or other safety standard, imposing a requirement for associated equipment, or regulating the carrying or use of marine safety articles;

(b) Relating to the design, manufacture, installation, or use of any marine sanitation device on any vessel;

(c) Regulating any vessel upon the Florida Intracoastal Waterway;

(d) Discriminating against personal watercraft;

(e) Discriminating against airboats, for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance;

(f) Regulating the anchoring of vessels other than live-aboard vessels outside the marked boundaries of mooring fields permitted as provided in s. 327.40;

(g) Regulating engine or exhaust noise, except as provided in s. 327.65; or

(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder. no such ordinance or local law may apply to the Florida Intracoastal Waterway and except that such ordinances or local laws shall be operative only when they are not in conflict with this chapter or any amendments thereto or regulations thereunder. Any ordinance or local law which has been adopted pursuant to this section or to any other state law may not discriminate against personal watercraft as defined in s. 327.02. Effective July 1, 2006, any ordinance or local law adopted pursuant to this section or any other state law may not discriminate against airboats except by a two-thirds vote of the governing body enacting such ordinance.

(3)(2) Nothing contained in the provisions of this section shall be construed to prohibit local governmental authorities from the enactment or enforcement of

regulations which prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or of any vessels within the marked boundaries of mooring fields permitted as provided in s. 327.40. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields of vessels other than live-aboard vessels as defined in s. 327.02 ~~non-live-aboard vessels in navigation.~~”

The 2009 amendment to the state definition of a live-aboard was adopted to prohibit local governments from regulating where vessels may anchor or moor except in designated mooring fields or if the vessel is solely used as a residence. The legislature preempted the regulation of vessel mooring and anchoring except those used strictly for residence or as a place of business.

More recently, in 2013, the United States Supreme Court in *Lozman v. City of Riviera Beach, Florida* determined that a houseboat is not subject to admiralty law. *See Lozman v. City of Riviera*, 133 S.Ct. 735, 740 – 742 (2013). In *Lozman*, the owner of a houseboat moored at a City marina asserted that the houseboat could not be subject to an admiralty action because it was not a vessel but was a home because it was not capable of navigation, had no rudder, no steering mechanism, a flat hull, must be towed and was solely used as a residence, including having French doors for windows. The United States Supreme Court agreed providing a subjective test that the determination of whether something is a vessel and is therefore subject to admiralty is based upon a reasonable observer, looking to the structure’s physical characteristics and activities, would consider it designed to a practical degree for carrying people or things over water. *Id.* at 470 – 471.

Based on the recent Florida statutory amendments and decision of the United States Supreme Court there is a clear delineation between the regulation of vessels capable of navigation and not primarily used as a residence and any a vessel that is not capable of navigation and is primarily used as a residence. In the first instance, Federal Laws governing admiralty control and in the latter, Monroe County’s LDRs regulate the structure.

This distinction between a vessel and a live-aboard is important because the current LDRs provide that a live-aboard is subject to the requirement of density and is defined as a dwelling unit subject to ROGO. Intrinsicly, if a live-aboard is subject to ROGO, the structure is capable of being demolished and redeveloped in a different location on the property, including potentially the upland portion of the property. By amending the LDRs to eliminate the density associated with livaboards and mirroring the State of Florida definition of a live-aboard, the LDRs comply with the intent of Monroe County’s Rate of Growth Ordinance which is based on the evacuation of the residents of Monroe County by vehicle along US1.

The amended definition of live-aboard would not apply to a broad range of vessels, including sports fisherman, yachts, and sailboats which routinely sail to the Florida Keys stay for a period of time and then leave by vessel. To regulate vessels capable of navigation is an impossibility as marinas must routinely have vessels arrive and depart which people stay upon while in port. To include all such vessels as live-aboards may lead to the determination that all vessels capable of habitation moored at a marina in existence as of 1986 were ROGO exempt. Such a determination would eviscerate hurricane evacuation clearance time evacuations and create an unmanageable ROGO exemption system. Potentially, thousands of unaccounted ROGO exemptions may be determined to exist based on the current Monroe County Code.

Currently, by defining a live-aboard as both pursuant to Florida Statutes §327.02 and as any vessel used solely as a residence or any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. A commercial fishing boat is expressly excluded from the term "live-aboard vessel." there is an inherent conflict between the State of Florida's definition governing vessels and Monroe County's definition governing live-aboards subject to Monroe County Code.

Amendment Summary:

The Applicant has requested to revise sections of Monroe County Code that require density allocations for live-aboards and redefines live-aboards to mirror Florida Statutes.

Current Comprehensive Plan Policies

Monroe County's Comprehensive Plan does not require density allocations for live-aboard vessels. All evacuation times and Hurricane Modeling have not included liveaboards. The inclusion of vessels capable of navigation that were found to be ROGO exempt based on the prior definition of a liveaboard would inextricably destroy the 24 hour evacuation times.

III. PROPOSED AMENDMENTS

Sec. 101-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Live-aboard vessel means ~~any vessel used solely as a residence or any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. A commercial fishing boat is expressly excluded from the term "live-aboard vessel."~~ as provided in F.S. § 327.02.

Sec. 114-19. Live-aboards.

Live-aboards shall be hooked up to an on-land sewage disposal system or shall be provided with onshore sanitary facilities, ~~and each live aboard shall count as a dwelling unit for the purposes of calculating density limitations in the district in which it is permitted.~~

(Code 1979, § 9.5-308; Ord. No. 33-1986, § 9-518)

Sec. 138-19. Residential rate of growth ordinance (ROGO).

Residential dwelling unit means a dwelling unit as defined in section 101-1, and expressly includes the following other terms also specifically defined in section 101-1: rooms, hotel or motel, campground spaces, mobile homes, transient residential units, institutional residential units (except hospital rooms) ~~and live-aboard vessels.~~

(Code 1979, § 9.5-120; Ord. No. 47-1999, § 3; Ord. No. 09-2006; Ord. No. 024-2012, § 1)

IV. CONSISTENCY WITH THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN, THE FLORIDA STATUTES, AND PRINCIPLES FOR GUIDING DEVELOPMENT

A. The proposed amendment is consistent with the following Goals, Objectives and Policies of the Monroe County Year 2010 Comprehensive Plan. Specifically, the amendment furthers:

Goal 101: Monroe County shall manage future growth to enhance the quality of life, ensure the safety of County residents and visitors, and protect valuable natural resources.

Objective 101.2: Monroe County shall reduce hurricane evacuation clearance times to 24 hours by the year 2010.

Policy 101.2.13: Monroe County shall establish an interim Permit Allocation System for new residential development. The interim Permit Allocation System shall supersede Policy 101.2.1 and remain in place until such time as Monroe County determines its future growth capacity based on hurricane evacuation, public safety and environmental needs including water quality and habitat protection, and amends its plan consistent with such determination, based on the results of the work program as set forth below. . .

Objective 101.4: Monroe County shall regulate future development and redevelopment to maintain the character of the community and protect the natural resources by providing for the compatible distribution of land uses consistent with the designations shown on the Future Land Use Map.

Policy 216.1.8

In the event of a pending major hurricane (category 3-5) Monroe County shall implement the following staged/phased evacuation procedures to achieve and maintain an overall 24-hour hurricane evacuation clearance time for the resident population.

1. Approximately 48 hours in advance of tropical storm winds, a mandatory evacuation of non- residents, visitors, recreational vehicles (RV's), travel trailers, live-aboards (transient and non- transient), and military personnel from the Keys shall be initiated. State parks and campgrounds should be closed at this time or sooner and entry into the Florida Keys by non-residents should be strictly limited.
2. Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of mobile home residents, special needs residents, and hospital and nursing home patients from the Keys shall be initiated.
3. Approximately 30 hours in advance of tropical storm winds, a mandatory phased evacuation of permanent residents by evacuation zone (described below) shall be initiated. Existing evacuation zones are as follows:

- a) Zone 1 – Key West, Stock Island and Key Haven to Boca Chica Bridge (MM 1-6)
- b) Zone 2 – Boca Chica Bridge to West end of 7-mile Bridge (MM 6-40)
- c) Zone 3 – West end of 7-Mile Bridge to West end of Long Boat Key Bridge (MM 40-63)
- d) Zone 4 – West end of Long Boat Key Bridge to CR 905 and CR 905A intersection (MM 63-106.5)
- e) Zone 5 – 905A to, and including Ocean Reef (MM 106.5–126.5)

The actual sequence of the evacuation by zones will vary depending on the individual storm. The concepts embodied in this staged evacuation procedures should be embodied in the appropriate County operational Emergency Management Plans.

B. The amendment is consistent with Florida Statutes

As stated previously, the amendment provides consistency with Florida Statutes. The current LDRs are inconsistent with current Florida Statute definitions of liveaboards and jurisdiction regulating vessels. The amendment provides consistency with State and Federal statutes.

C. The amendment is consistent with the Principles for Guiding Development for the Florida Keys Area, Section 380.0552(7), Florida Statute.

For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

(b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.

(g) Protecting the historical heritage of the Florida Keys.

(h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection, treatment, and disposal facilities;
3. Solid waste treatment, collection, and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.

(l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.

(m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a postdisaster reconstruction plan.

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Pursuant to Section 380.0552(7) Florida Statutes, the proposed amendment is consistent with the Principles for Guiding Development as a whole and is not inconsistent with any Principle.

V. CONCLUSION

Based on the foregoing, the proposed amendments should be adopted. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Barton W. Smith', with a long horizontal flourish extending to the right.

Barton W. Smith, Esq.

On behalf of Longstock II, LLC

Cc: Client

PART II - LAND DEVELOPMENT
Chapter 114 - DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

ARTICLE I. IN GENERAL

[Sec. 114-19. Live-aboards.](#)

Sec. 114-19. Live-aboards.

Live-aboards shall be hooked up to an on-land sewage disposal system or shall be provided with onshore sanitary facilities, and each live-aboard shall count as a dwelling unit for the purposes of calculating density limitations in the district in which it is permitted.

(Code 1979, § 9.5-308; Ord. No. 33-1986, § 9-518)

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Chapter 101 GENERAL PROVISIONS

Sec. 101-1. Definitions.

Sec. 101-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access means ingress or egress to land from a street or easement.

Accessory use or accessory structure means a use or structure that:

- (1) Is subordinate to and serves an existing principal use or principal structure; and
- (2) Is subordinate in area, extent and purpose to an existing principal use or principal structure served; and
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or principal structure served; and
- (4) Is located on the same lot/parcel or on a lot/parcel that is under the same ownership as the lot/parcel on which the principal use or principal structure is located; and
- (5) Is located on the same lot/parcel or on a contiguous lot/parcel as an existing principal use or principal structure, excluding accessory docking facilities that may be permitted on adjacent lots/parcels pursuant to section 118-12; and
- (6) Is located in the same land use (zoning) district as the principal use or principal structure, excluding off-site parking facilities pursuant to section 114-67

Accessory uses include the utilization of yards for home gardens, provided that the produce of the garden is for noncommercial purpose. In no event shall an accessory use or structure be established prior to the principal use to which it is accessory. Accessory uses shall not include guest units or any other potentially habitable structures. Habitable structures are considered to be dwelling units as defined in this section.

Adjacent landowner means an owner of land sharing a boundary with another parcel of land. For purposes of this land development code, an intervening road, right-of-way, or easement shall not destroy the adjacency of the two parcels.

Adjacent parcel means a parcel of land sharing a boundary with another parcel of land at one or more points of intersection. For purposes of this land development code, an intervening road, right-of-way or easement shall not destroy the adjacency of the two parcels.

Adverse impacts, stormwater management, means modifications, alterations, or effects on groundwaters or surface waters or wetlands, including quality, quantity, hydrodynamics, i.e., currents, flow patterns, surface area, species composition, living resources, or usefulness which are or may be potentially harmful to human health and safety, to biological productivity or stability, or which interfere with lawful enjoyment of life or property, including secondary, cumulative, and direct impacts.

Affordable housing.

- (1) *Affordable housing* means residential dwelling units that meet the following requirements:

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

- a. Meet all applicable requirements of the United States Department of Housing and Urban Development minimum property standards as to room sizes, fixtures, landscaping and building materials, when not in conflict with applicable laws of the county; and
 - b. A dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of that amount which represents either 50 percent (very low income) or 80 percent (low income) or 100 percent (median income) or 120 percent (moderate income) of the monthly median adjusted household income for the county.
- (2) *Affordable housing owner occupied, low income*, means a dwelling unit occupied only by a household whose total household income does not exceed 80 percent of the median monthly household income for the county.
 - (3) *Affordable housing owner occupied, median income*, means a dwelling unit occupied only by a household whose total household income does not exceed 100 percent of the median monthly household income for the county.
 - (4) *Affordable housing owner occupied, moderate income*, means a dwelling unit occupied only by a household whose total household income does not exceed 160 percent of the median monthly household income for the county.
 - (5) *Affordable housing owner occupied, very low income*, means a dwelling unit occupied only by a household whose total household income does not exceed 50 percent of the median monthly household income for the county.
 - (6) *Affordable housing trust fund* means a trust fund established and maintained by the county for the purpose of preserving existing and promoting creation of new affordable and employee housing. Funds collected for and deposited in the trust fund shall be used exclusively for purposes of creating, preserving or maintaining affordable and employee housing in the Florida Keys.
 - (7) *Affordable rental housing, low income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents 80 percent of the monthly median adjusted household income for the county.
 - (8) *Affordable rental housing, median income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents 100 percent of the monthly adjusted median household income for the county.
 - (9) *Affordable rental housing, moderate income*, means a dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents 120 percent of the monthly median adjusted household income for the county.
 - (10) *Affordable rental housing, very low income*, means a rental dwelling unit whose monthly rent, not including utilities, does not exceed 30 percent of the amount that represents 50 percent of the monthly median adjusted household income for the county.
 - (11) *Employee housing* means an attached or detached dwelling unit that is intended to serve as affordable, permanent housing for working households, which derive at least 70 percent of their household income from gainful employment in the county and meet the requirements for affordable housing as defined in this section and as per section 130-161
 - (12) *Employer-owned rental housing* means an attached or detached dwelling unit owned by a firm, business, educational institution, non-governmental or governmental agency, corporation or other entity that is intended to serve as affordable, permanent housing for its employees. This category of employee housing shall be located on the same parcel of land as the nonresidential use.
 - (13) *Inclusionary housing* means the resulting affordable and/or employee housing created or preserved with the development and/or redevelopment of a parcel where provisions of approved

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

development agreements or orders implement and promote affordable and/or employee housing goals, objectives and policies contained in the plan by requiring set-asides for affordable and/or employee housing units.

- (14) *Median income, rental rates and qualifying incomes table*, means eligibility requirements compiled each year by the planning department based upon the median annual household income published for the county on an annual basis by the U.S. Department of Housing and Urban Development and similar information for median and moderate income levels from the Florida Housing Finance Corporation. Affordable housing eligibility requirements for each household will be based upon median annual household income adjusted by family size, as set forth by the U.S. Department of Housing and Urban Development and the Florida Housing Finance Corporation. The county shall rely upon this information to determine maximum rental rates and maximum household incomes eligible for affordable housing rental or purchase.
- (15) *Monthly median household income* means the median annual household income for the county divided by 12.

Agricultural lands means lands classified as agricultural by the county property appraiser in accordance with F.S. § 193.461, for agricultural uses, including forest management, and agricultural uses under the comprehensive plan.

Agriculture means mariculture, beekeeping, animal husbandry, groves and nurseries, but does not mean row crops.

AICUZ (air installations compatible use zones) means a program to protect the public safety, health and welfare while forestalling degradation to the operational capability of military air installations. The main intent of the AICUZ program is to ensure that development of surrounding lands will be compatible with the noise levels and accident potential associated with airport operations.

Aircraft means any motor vehicle or contrivance now known, or hereafter invented, which is used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

Airport means any area of land or water, or any manmade object or facility located thereon, which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. There are both public and private airports, which are differentiated as follows:

- (1) A public airport is publicly or privately owned, meets minimum safety and service standards, and is open for use by the public; and
- (2) A private airport is publicly or privately owned, and is available for use by invitation of the licensee. Services may be provided if authorized by the Florida Department of Transportation.

Airport elevation means the highest point of an airport's usable landing area measured in feet above mean sea level (MSL).

Airport hazard means any structure, object, or natural growth, or use of land that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to such landing or taking off.

Airport height means the vertical distance from mean sea level (MSL) for the purpose of determining the limit in all zones set forth in the airport district unless otherwise specified.

Airport overlay zone means the zone that extends above and beyond immediate airport property boundaries and is defined in this chapter for public, private and military airports.

Airport uses means fixed- and rotary-wing aircraft operations together with retail sales and service operations related to public or general aviation, including aircraft sales, repair and storage, commercial shipping and storage, and restaurants designed to serve aviation passengers, and other public uses.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

However, the use of a site by any ultra-light aircraft that meets the criteria for maximum weight, fuel capacity and airspeed established for such aircraft by the U.S. Federal Aviation Administration shall be considered an airport use if the site is within five nautical miles of either a public or military airport or 3,000 feet from the boundaries of a private airport.

Airspace height means mean sea level elevation (MSL) unless otherwise specified for the purpose of determining the height limits in all zones set forth in this section.

Airspace obstruction height means the maximum vertical elevation of the highest part of any object or structure, including mechanical equipment, chimneys, spires, steeples, radio or television antennas, flagpoles, solar apparatus, utility poles, and trees or landscaping with respect to the nearest airport runway threshold elevation.

Allocated density. See "Density."

Application for development approval means any written request for approval and/or issuance of a development permit.

Aquifer means an underground formation permeable enough to transmit, store or yield quantities of salt or fresh water.

Area of special flood hazard means the land subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building between floor and ceiling that may be partly below and partly above grade.

Beach berm means a bare, sandy shoreline with a mound or ridge of unconsolidated sand that is immediately landward of, and usually parallel to, the shoreline and beach. The sand is calcareous material that is the remains of marine organisms such as corals, algae and molluscs. The berm may include forested, coastal ridges and may be colonized by hammock vegetation.

Beekeeping means the keeping of bees for the harvest of honey.

Best management practices, stormwater management, means those methods of stormwater management recognized by experts in the field as the most effective for treating or managing stormwater runoff.

Board means the board of county commissioners of the county.

Boat barn means a structure enclosing and/or covering boat storage racks with a roof and one or more sides and used for the storage of vessels and associated equipment not associated with retail sales of boats. Boat barns within marinas may be considered as the principal building or structure, but the marina remains the principal use.

Breakaway walls means walls of any construction intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized.

Buildable lot means a duly recorded lot that complies with each and every requirement of the county's zoning and subdivision codes immediately prior to the effective date of the ordinance from which this chapter is derived.

Building means a structure that is located on land or water and which can be used for housing, business, commercial, agricultural, storage or office purposes, either temporarily or permanently.

Building code means the Florida Building Code as applied to the county.

Building permit means that development permit described in section 110-140.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Buttonwood association. See "Salt marsh and buttonwood associations."

Cactus hammock means a low hammock with understories and/or ground covers with an abundance of cacti of the genera *Optunia* and *Cereus*. Common species in cactus hammocks include Barbed Wire Cactus (*Cereus pentagonus*), Prickly Pear Cactus (*Optunia stricta* var. *dillenii*). Rare species include Tree Cactus (*Cereus robinii*) and Prickly Apple Cactus (*Cereus gracilis*).

Campground space means a space, whether improved or unimproved, used for tent camping, including pop-ups, by a single housekeeping unit for tenancies of less than six months.

Canopy trees means tall trees that form the uppermost leaves or needles in a hammock or pineland area as may be required in landscaping by these regulations.

Capacity means the capability of a facility to serve the needs of a user such as the number of vehicles a road can safely and efficiently carry.

Capital improvements means the planning of, engineering for, acquisition of land or equipment, and the construction of improvements, including, but not limited to, road, park, solid waste, library, public buildings and emergency services, and police facilities, but does not include routine maintenance.

Clearing and grubbing means the clearing of land, including clearing or renewal of vegetation, and including any significant disturbances of vegetation or substrate (soil) manipulation; clearing is a development activity as defined by this section.

Coastal Barrier Resources System (CBRS) means those 15 (CBRS) units in the county designated under the Federal Coastal Barrier Resources Act (CBRA) of 1982, comprising undeveloped coastal barriers and all associated aquatic habitats including wetlands, marshes, estuaries, inlets and near shore waters.

Coastal high-hazard area means the area subject to storm surge as well as high-velocity waters caused by, but not limited to, hurricane wave wash or tsunamis. The area is designated on the flood insurance rate map (FIRM) as zone V1-30.

Code means the Code of Ordinances of Monroe County.

Collecting agency means the planning director.

Commencement of construction means the first placement of permanent evidence of a structure on a site pursuant to a duly issued building permit, such as the pouring of slabs or footings or any work beyond the state of excavation, including the relocation of the structure. Permanent construction does not include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or to a part of the main structure.

Commercial apartment means an attached or detached residential dwelling unit located on the same parcel of land as a nonresidential use that is intended to serve as permanent housing for the owner or employees of that nonresidential use. The term does not include a tourist housing use or vacation rental use.

Commercial fishing means the catching, landing, processing or packaging of seafood for commercial purposes, including the mooring and docking of boats and/or the storage of traps and other fishing equipment and charter boat uses and spot diving uses.

Commercial recreation, indoors, means a use designed and equipped for the conduct of sports and leisure-time activities operated as a business and providing completely enclosed recreation activities. This definition includes, but is not limited to, bowling, tennis and racquetball courts, miniature golf, driving ranges, theatres, health clubs and swimming pools.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Commercial recreation, outdoors, means a use designed and equipped for the conduct of sports and leisure-time activities primarily within uncovered or unenclosed areas. This definition includes, but is not limited to, courts, miniature golf, driving ranges, golf courses and swimming pools.

Commercial retail use means a use that sells goods or services at retail. Commercial retail uses are divided into the following three classifications:

- (1) *Commercial retail low-intensity* means commercial retail uses that generate less than 50 average daily trips per 1,000 square feet of floor area.
- (2) *Commercial retail medium-intensity* means retail uses that generate between 50 and 100 average daily trips per 1,000 square feet of floor area.
- (3) *Commercial retail high-intensity* means retail uses that generate above 100 average daily trips per 1,000 square feet of floor area.

Commercially exploited means native plants so designated by the Florida Department of Agriculture as listed in the Preservation of Native Flora of Florida Act, F.S. §§ 581.185—581.187, as amended from time to time.

Commission means the planning commission. See section 102-20.

Community character means those indices of the composite nature of an area that are described in chapter II, volume 1 of the comprehensive plan.

Community park means an active or recreational use operated for the benefit of the general public by a public or quasi-public agency.

Comprehensive plan. See "Plan."

Connections means driveways, streets, turnouts or other means of providing the movement of vehicles to or from roads.

Conservation land protection area means areas that have been identified by the county in management plans for resource protection that are inside or adjacent to existing state and federal park and conservation land boundaries.

Construction impact zone means the area to be deducted from the buildable area of a parcel in order to allow for clear working area during construction activities and which shall include a perimeter of at least five feet around the proposed structure as measured from the drip line or the outermost point of the structure.

Construction, stormwater management, means any on-site activity that will result in the change of natural drainage patterns and will require the creation of a new stormwater management system.

Contiguous means a sharing of a common border at more than a single point of intersection. Contiguity is not interrupted by utility easements.

Contractor's equipment storage yard means light industrial use predominately for the parking or storage of construction vehicles or equipment used by a building or construction trades contractor, provided that all vehicle and equipment repair or maintenance is conducted in an enclosed building or structure. A contractor's equipment storage yard is considered a light industrial use.

Control elevation means the lowest point above sea level at which water can be released through the control structure.

Control structure means the element of a discharge structure that allows the gradual release of water under controlled conditions.

Control zone means the airspace extending upward from the surface of the earth that may include one or more airports and is normally a circular area of five statute miles in radius with extensions where necessary to include instrument approach and departure paths.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

County means the County of Monroe in the State of Florida.

Cut and fill means the removal of surface and subsurface materials by any means from one area and deposition of such materials in another area; also, the removal of surface and subsurface materials from one area and deposition of new materials in that area.

DBH (diameter at breast height) means a tree diameter as measured from the base of the tree, taken at approximately four feet above the surrounding grade.

Decision height means the height at which a decision must be made, during ILS instrument approach, to either continue the approach or to execute a missed approach.

Density or allocated density means the number of dwelling units or rooms allocated per gross acre of land by the plan.

Density, maximum net, means the maximum density permitted to be developed per unit of land on the net buildable area of a site, as measured in dwelling units or rooms per acre.

Destination resort means a planned development containing one or more hotels as a principal use with accessory uses that provide on-site recreational, commercial and entertainment opportunities of a magnitude sufficient to attract visitors and tourists for tenancies of three or more days.

Detention means the delay of stormwater runoff prior to discharge into receiving waters.

Developer means any person, including a governmental agency, undertaking any development as defined in the plan.

Development means the carrying out of any building activity, the making of any material change in the use or appearance of any structure on land or water, or the subdividing of land into two or more parcels.

- (1) Except as provided in subsection (3) of this definition, for the purposes of this chapter, the following activities or uses shall be taken to involve "development":
 - a. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
 - b. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
 - c. Alteration of a shore or bank of a seacoast, lake, pond or canal, including any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes;
 - d. Commencement of drilling (except to obtain soil samples), mining or excavation on a parcel of land;
 - e. Demolition of a structure;
 - f. Clearing of land, including clearing or removal of vegetation and, including significant disturbance of vegetation or substrate (soil) manipulation, including the trimming of mangroves to the extent allowed by law; and
 - g. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- (2) The term "development" includes all other activity customarily associated with it. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this definition.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

- (3) For the purpose of this chapter, the following operations or uses shall not be taken to involve "development":
- a. Work involving the maintenance, renewal, improvement or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
 - b. Work involving the maintenance of existing landscaped areas and existing rights-of-way such as yards and other nonnatural planting areas;
 - c. A change in use of land or structure from a use within a specified category of use to another use in the same category unless the change involves a change from a use permitted as of right to one permitted as a minor or major conditional use or from a minor to a major conditional use;
 - d. A change in the ownership or form of ownership of any parcel or structure;
 - e. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law; or
 - f. The clearing of survey cuts or other paths of less than four feet in width and the mowing of vacant lots in improved subdivisions and areas that have been continuously maintained in a mowed state prior to the effective date of the plan, the trimming of trees and shrubs and gardening in areas of developed parcels that are not required open space and the maintenance of public rights-of-way and private accessways existing on the effective date of the ordinance from which this chapter is derived or approved private rights-of-way.
- (4) The term "development" also means the tourist housing use or vacation rental use of a dwelling unit, or a change to such a use (i.e., conversion of existing dwelling units to vacation rental use). Vacation rental use of a dwelling unit requires building permits, inspections and a certificate of occupancy.

Development approval, development order, or development permit includes any building permit, conditional use approval, subdivision approval, change of land use district boundary, comprehensive plan text amendment, certificate of compliance, or any other official action by any official, commission, or board of the county having the effect of permitting development.

Development right means the right to use real property for uses or purposes permitted by the comprehensive plan.

Director means the director of planning. See section 102-21.

Discharge, direct, means the release of stormwater through a control structure to the receiving water body.

Discharge structure means a device through or over which water is released from a stormwater management structure.

Disturbed land means land that manifests signs of environmental disturbance that has had an observable effect on the structure and function of the natural community that existed on the site prior to the disturbance.

Dock or docking facility means a fixed or floating structure built and used for the landing, berthing, and/or mooring of vessels or watercraft either temporarily or indefinitely. Docking facilities include, but are not limited to, wharves, piers, quays, slips, basins, ramps, posts, cleats, davits, piles or any other appurtenances or attachment thereto. For the purposes of this land development code, docks shall not include "water access walkways" as defined in this section.

Double frontage means a lot having frontage on two or more nonintersecting streets, sometimes called a through lot.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Drain means a channel, pipe or duct for conveying water.

Drainage means removal of water from an area to lower the water level of that area.

Drainage basin means a catchment area that is otherwise draining to a watercourse or contributing flow to a body of water.

Drawdown means the difference in water table level between a well head and any distance from it.

Dredging means excavation below water level or in wetlands.

Dry detention means the delay of stormwater runoff prior to discharge into receiving waters in a structure with a bottom elevation above the water table or control elevation.

Dry retention means the prevention of stormwater runoff from direct discharge into receiving waters in a structure with a bottom elevation above the water table or control elevation.

Dwelling, apartment, means a multifamily building in which units share common entries or accesses to individual units.

Dwelling, attached, means a residential dwelling unit consisting of one or more of residential units that are developed without open yards on all sides of the dwelling unit.

Dwelling, commercial apartment, means apartments that are built as a part of a commercial or office use.

Dwelling, detached, means an individual residential dwelling that is developed with open yards on all sides of the dwelling unit but not including mobile homes or recreational vehicles.

Dwelling, duplex, means two-family dwellings with the units either side-by-side or in any over-under configuration. In the side-by-side configuration, the units share a common wall, while in the over-under configuration, they are stacked.

Dwelling, rooftop/balcony, means an attached dwelling with a single unit from ground to roof.

Dwelling, townhouse, means an attached dwelling with only one dwelling unit from ground to roof attached to its neighbors on no more than two sides.

Dwelling unit means one or more rooms physically arranged to create a housekeeping establishment for occupancy by one family with separate toilet facilities. The abbreviation "DU" means dwelling unit.

Dwelling, zero lot line, means a detached dwelling in which the constraints on minimum yard widths are limited, permitting the developer to design a cluster of houses in a manner where building spacing and setbacks are designed to achieve a desired effect.

Employee housing. See "Affordable housing."

Employee-owned rental housing. See "Affordable housing."

Erosion means the washing away or scouring of soil by water or wind action.

Exceptional hardship means a burden on a property owner that substantially differs in kind or magnitude from the burden imposed on other similarly situated property owners in the same land use district as a result of adoption of these regulations.

Existing means the condition immediately before development or redevelopment occurs.

Existing conditions map means the official map of existing conditions as adopted pursuant to section 130-4 of these regulations which is on file with the department of planning which reflect vegetation, natural features and developed lands in the county as modified by development authorized by section 101-4(b).

Fee payer means a person commencing land development activity that places measurable additional demand on the county's major road network system, community park facilities, library facilities, solid

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

waste disposal facilities, or police facilities, and who has a paid or is obligated to pay an impact fee in accordance with the terms of this chapter.

Fence means a barrier made of rocks, logs, posts, boards, wire, stakes, rails, masonry components, or similar material or combination of materials.

Fill means material, consolidated or unconsolidated deposited on land or in water.

Floating structure means as defined in F.S. § 327.02.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of tidal waters or the unusual and rapid accumulation of stormwater runoff of waters from any surface.

Flood hazard boundary map or *FHBM* means the official map of the county, issued by the Federal Emergency Management Agency, where boundaries of the areas of special flood hazard have been defined as zone A.

Flood insurance rate map or *FIRM* means the official map of the county on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the county.

Flood insurance study is the official report provided to the county by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevations of the base flood.

Floor means the top surface of an enclosed area in a building (including basement), i.e., the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction. The term does not include the floor of an area used exclusively for parking of vehicles (i.e., garage), limited storage, or building access (i.e., stairs, elevator shafts, maintenance crawl space).

Floor area means the sum of the gross horizontal areas of each story of the principal building, measured from the exterior walls or from the centerline of party walls, including the floor area of accessory uses and of accessory buildings and structures.

Floor area ratio means the total floor area of the building on a lot divided by the gross area of the lot or site.

Frequency means the anticipated cyclic return period of a storm event, e.g., 25-year storm.

Freshwater lens means a freshwater aquifer at the top of the water table overlying a saline aquifer.

Freshwater wetlands means wetland areas with either standing water or saturated soil, or both, where the water is fresh or brackish. The vegetation common in freshwater wetlands in the Florida Keys include the following species:

Cladium jamaicensis	Saw grass
Conocarpus erectus	Buttonwood
Eleocharis cellulosa	Spike rush
Laguncularia racemosa	White mangrove

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Rhizophora mangle	Red mangrove
Typha spp.	Cattail

Frontage means that part of a lot abutting on a right-of-way.

Functional integrity means the completeness and natural stability of an assemblage of native plants and animals as indicated by measures of continuity, species diversity, species interdependence and biomass.

Governmental agency means:

- (1) The United States or any department, commission, agency or other instrumentality thereof;
- (2) The state or any department, commission, agency or other instrumentality thereof;
- (3) Any local government or any department, commission, agency or other instrumentality thereof;
or
- (4) Any school board or other special district, authority or governmental entity.

Grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure, or the crown or curb of the nearest road directly adjacent to the structure, whichever is higher. To confirm the natural elevation of the ground surface, the county shall utilize the Light Detection and Ranging (LiDAR) dataset for Monroe County prepared in 2007. In the event 2007 LiDAR data is not available for a given parcel, the county shall use the best available data, including, but not limited to, pre-construction boundary surveys with elevations, pre-construction topographic surveys, elevation certificates and/or other optical remote sensing data.

Gross acre means the total area of a site excluding submerged lands, tidally inundated mangroves, not to exceed mean high tide, and any publicly dedicated rights-of-way.

Gross area means the total acreage of a site less submerged lands and any dedicated public rights-of-way.

Groundwater means water beneath the surface of the ground.

Habitable floor means any floor area equipped for uses including, but not limited to, kitchen, dining, living, family or recreation room, laundry, bedroom, bathroom, office, workshop, professional studio or commercial occupancy.

Heavy industrial use means an industrial use with greater than average potential impacts on the environment and that is characterized by significant impacts on adjacent uses in terms of noise, hazards and odors, such as junkyards, marine railways and dry docks, bulk petroleum storage, and resource extraction where more than 20 percent of the use takes place outside of an enclosed building or where exterior storage equals or exceeds building floor area.

Height is defined as "the vertical distance between grade and the highest part of any structure, including mechanical equipment, but excluding chimneys; spires and/or steeples on structures used for institutional and/or public uses only; radio and/or television antenna, flagpoles; solar apparatus; utility poles and/or transmission towers; and certain antenna supporting structures with attached antenna and/or collocations as permitted in chapter 146. However, in no event shall any of the exclusions enumerated in this section be construed to permit any habitable or usable space to exceed the applicable

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

height limitations. In the case of airport districts, the height limitations therein shall be absolute and the exclusions enumerated in this section shall not apply.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

High hammock means an upland, hardwood forest community in which the following species of plants represent a component of the flora:

Ateramnus lucidus	Crabwood
Bursera simaruba	Gumbo limbo
Calypttranthes pallens	Pale lidflower
Columbrina elliptica	Soldierwood
Drypetes lateriflora	Guiana plum
Eugenia confusa	Redberry stopper
Eugenia rhombea	Red stopper
Exostema caribaeum	Princewood
Exothea paniculata	Inkwood
Ficus aurea	Strangler fig
Ficus citrifolia	Short-leaf fig
Guettarda elliptica	Everglades velvetseed
Guettarda scabra	Rough velvetseed
Hamelia patens	Scarletbush

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Hypelate trifoliata	White ironwood
Krugiodendron ferrum	Black ironwood
Lasciacis divaricata	Wild bamboo
Lysiloma latisiliquum	Wild tamarind
Mastichodendron foetidissimum	Mastic
Nectandra coriacea	Lancewood
Psychotria ligustrifolia	Wild coffee
Psychotria nervosa	Wild coffee
Simarouba glauca	Paradise tree
Trema lamarckiana	West Indies trema
Trema micrantha	Florida trema

Home occupation means a business, profession, occupation or trade conducted within a residential building or accessory structure for gain or support by a resident of the dwelling.

Hotel means a building containing individual rooms for the purpose of providing overnight lodging facilities for periods not exceeding 30 days to the general public for compensation with or without meals, and which has common facilities for reservations and cleaning services, combined utilities and on-site management and reception.

Houseboat means as provided in F.S. § 327.02.

Hydrograph means a graph of flow rate of discharge.

Hydrologic cycle means the cycle of evaporation and precipitation of moisture between the earth and the atmosphere.

Hydroperiod means the cyclic changes (daily or seasonal) in the amount of water in a wetland or deep water habitat.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Impervious surface means a surface that does not allow, or minimally allows, the penetration of water; included as examples are building roofs, normal concrete and asphalt pavements, and some fine-grained soils, such as clays.

Indirect discharge means release of stormwater from a system by means other than a control structure, e.g. spreader swale, sheet flow.

Industrial use means a use devoted to the manufacture, warehousing, assembly, packaging, processing, fabrication, storage or distribution of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats.

Institutional-residential use means a place of permanent or temporary residence where unrelated persons reside in a commercial setting with centralized heating, recreational and health care facilities, such as group homes, convents, foster care facilities, hospitals, nursing or convalescent homes and life care/elderly housing.

Institutional use means a use that serves the recreational, religious, educational, cultural or health needs of the community, including educational and scientific research facilities that serve the region and day care and preschool facilities.

Instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities or area-type navigation equipment, for which an instrument approach procedure has been approved or planned.

Intertidal zone or intertidal means the area between the highest high tide and the lowest low tide of an average annual tide.

Invasive exotic species means Melaleuca (*Melaleuca quinquinerva*), Australian Pine (spp. *Casuarina*), Brazilian Pepper (*Schinus terebinthifolius*), Leatherleaf (*Colubrina asiatica*), and Sapodilla (*Manilkara zapota*) north of the Seven Mile Bridge.

Isolated wetlands means those areas dominated by wetland plant species pursuant to F.A.C. 62-301.400, exclusive of provisions requiring continuity with surface waters as defined in F.S. § 403.031.

Land means the earth, at or below the surface that lies above high tide for lands subject to tidal inundation and mean high water for freshwater bodies of water.

Land development activity generating traffic means the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trips over and above that produced by the existing use of the land.

Land use means:

- (1) The development that has occurred on land;
- (2) The development that is proposed by a developer on land; or
- (3) A use that is permitted or permissible on the land under the plan, or element or portion thereof, of land development regulations.

Level of service means a quantitative measure describing operational conditions within a traffic stream. The procedures contained in the "Highway Capacity Manual, Special Report 209," by the Transportation Research Board of the National Research Council, 1985, as updated or created shall be the primary basis and reference for determining the level of service of any given roadway, bicycle path, or pedestrian facility. For U.S. 1, the basis for determining level of service is the methodology developed by the U.S. 1 Level of Service Task Force.

Light industrial use means an industrial use that is not a heavy industrial use. See "Industrial use."

Live-aboard vessel means any vessel used solely as a residence or any vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. A commercial fishing boat is expressly excluded from the term "live-aboard vessel."

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Local planning agency means the agency designated to prepare and review the comprehensive plan. In the county, the local planning agency is the planning commission.

Local road means a road designated and maintained primarily to provide access to abutting property. A local road is of limited continuity and is not for through traffic. A local road is not considered as part of the major road network system.

Lot means a parcel of land occupied or intended for occupancy by an individual use including one main structure together with accessory structures, yards, open spaces, buffer areas and parking spaces.

Lot lines, front, means in the case of a lot abutting only one street, the street right-of-way line separating such lot from such street; in the case of a double frontage lot or corner lot, each street right-of-way line separating such lot from a street shall be considered to be the front lot line.

Lot lines, rear, means a lot line that is most nearly parallel to and most distant from the front lot line of the lot. In the case of a lot where the side lot lines intersect there shall be no rear lot line and in the case of lots that have frontage on more than one road or street, nonfrontage lot lines shall be considered side yards.

Lot lines, side, means a lot line that is neither a front or rear lot line running perpendicular or radial from the front lot line and corresponding street right-of-way.

Lowest floor means the lowest enclosed area (including basement) of a structure. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered the building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of chapter 122.

Low hammock means an upland hardwood forest community in which the following species of plants represent a major component of the flora:

Alternanthera ramosissima	Chaff flower
Bumelia celastrina	Saffron plum
Capparis flexuosa	Limber caper
Casasia clusiifolia	Seven-year apple
Cereus spp.	Cactus
Coccoloba uvifera	Seagrape
Conocarpus erectus	Buttonwood
Crossopetalum rhacoma	Rhacoma

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Erithalis fruticosa	Black torch
Ernodea littoralis	Golden creeper
Eugenia foetida	Spanish stopper
Guapira discolor	Blolly
Jacquinia keyensis	Joewood
Manilkara bahamensis	Wild dilly
Optuntia spp.	Cactus
Reynosia septentrionalis	Darling plum
Thrinax morrisii	Key thatch palm
Thrinax radiata	Florida thatch palm
Ximenia americana	Hog plum

Maintenance means that action taken to restore or preserve the functional intent of any facility or system.

Major street means U.S. 1, 905, 940 and Key Deer Boulevard for the purposes of chapter 114, article V.

Mangrove community means a wetland plant association subject to tidal influence where the vegetation is dominated by one more of the following three species of mangroves:

Avicennia germitiatis	Black mangrove
Laguncularia racemosa	White mangrove

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Rhizophora mangle	Red mangrove
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Manmade water body means a water body that was created by excavation by mechanical means under human control and shall include a canal, cut basin or channel where its edges or margins have subsequently been modified by natural forces.

Mariculture means a use that involves the hatching, raising and production of animals and plants.

Marina means a facility for the storage (wet and dry), launching and mooring of boats together with accessory retail and service uses, including restaurants and live-aboards, charter boat and sport diving uses, except where prohibited, but not including docks accessory to a land-based dwelling unit limited to the use of owners or occupants of the dwelling unit.

Market rate housing means an attached or detached dwelling unit that is intended to serve as permanent housing for households not eligible for affordable or employee housing under this chapter.

Master planned community means any master planned community subject to a master plan or other development order approved by the county where public access is restricted and the community is operated and maintained by the community including the provision of comprehensive, private utilities and transportation facilities and services within its boundaries and a homeowners association or similar entity which regulates development standards and monitors development requests by its members.

Maximum sales price, owner occupied affordable housing unit, means a price not exceeding 3.75 times the annual median household income for the county for a one bedroom or efficiency unit, 4.25 times the annual median household income for the county for a two bedroom unit, and 4.75 times the annual median household income for the county for a three or more bedroom unit.

Mean high water line or mean high tide (MHW) means the point to which water extends onto the shoreline at average daily high tide as indicated by physical evidence on site such as discoloration, vegetative indicators or wrack lines.

Mean low water line or mean low tide (MLW) means the point to which water extends onto a shoreline at average daily low tide as indicated by physical evidence on site such as discoloration, or vegetative indicators.

Mean sea level (MSL) means the average height of the sea for all stages of the tide. For the purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Median annual household income means the median of annual household income (per household size) as published for the county on an annual basis by the U.S. Department of Housing and Urban Development.

Military facility means a use devoted to one of the armed services of the United States.

Minimum descent altitude means the lowest altitude, expressed in feet above mean sea level (MSL), to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

Minimum en route altitude means the altitude in effect between radio fixes that ensures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

Minimum obstruction clearance altitude means the specified altitude in effect between radio fixes on VOR airways, off-airway routes or route segments that meets obstruction clearance requirements for the entire route segment and which ensures acceptable navigational signal coverage only within 22 miles of a VOR.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Miniwarehouses means a light industrial use of land for a self-storage center that is a building or group of buildings divided into separate compartments for use by individuals or businesses and used for storage only.

Mobile home means a structure transportable in one or more sections which structure is eight body feet (2.4 meters) or more in width and over 35 feet in length, which structure is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein, including expandable recreational vehicles, known as "park models" designed and built as a permanent residence, the structure for which is 35 feet or less in length and in excess of eight feet in width.

Mobile home park means a place set aside and offered by a person or public body for either direct or indirect remuneration of the owner, lessor or operator of such place for the parking or accommodation of six or more mobile homes.

Modest housing means residential units that have a combination of design and site characteristics that make them more reasonably priced than residential units lacking such characteristics.

Modular home means a structure intended for residential use that is manufactured off-site in accordance with state standards.

Monroe County Comprehensive Plan means the Monroe County Comprehensive Plan adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.

National Geodetic Vertical Datum (NGVD) is a vertical control, as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

Natural biological systems means those predominantly consisting of or using those communities of plants, animals, and bacteria that occur indigenously on land, in the soil, or in the water.

Natural water flow pattern means the rate, volume and direction of surface water or groundwater flow occurring under natural (daily and seasonal) conditions before development.

Net buildable area means that portion of a parcel of land that is developable and is not open space required by section 130-157 or required minimum bufferyard under chapter 114, article V or required setbacks under section 130-186.

New construction means a structure for which a building permit is obtained on or after the effective date of the ordinance from which this chapter is derived.

Newspaper of general circulation means a newspaper of local origin published at least on a weekly basis, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or newspaper that is given away primarily to distribute advertising.

Noncommencement means the cancellation of construction activity, making a material change in a structure, or the cancellation of any other land development activity making a material change in the use or appearance of land.

Nonconforming signs. See section 102-59.

Nonconforming structure means any structure lawfully existing on the effective date of the ordinance from which this chapter is derived other than a sign, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of this chapter or any amendment thereto.

Nonconforming use means any use lawfully being made of any land, buildings or structure, other than a sign, on the effective date of the ordinance from which this chapter is derived or any amendment thereto, rendering such use nonconforming, which does not comply with all of the regulations of this chapter, or any amendment thereto.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Nonwaterfront lot means a parcel of land that does not contain a shoreline.

Nursery means a use in which plants are grown for sale or for the harvest of their products.

Office means a use where business, professional or governmental services are made available to the public.

Officer or official means an officer or official of the county.

Open space means that portion of any parcel or area of land or water that is required to be maintained such that the area within its boundaries is open and unobstructed from the ground to the sky.

Open space ratio (OSR) means the percentage of the total gross area of a parcel that is open space.

Operational entity means an acceptable, legally bound, responsible organization that agrees to operate and maintain the surface water management system.

Ordinance means any ordinance of the county and all amendments thereto.

Outdoor lighting means any light source that is installed or mounted outside of an enclosed building, including street lights and spotlights.

Outdoor retail sales means a commercial use, as defined in this section, that predominantly involves the display and sale of vehicles, recreational vehicles, boats, campers, equipment, goods, materials and services outside of a building.

Owner means any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or beneficial title to the whole or to part of a building or land.

Palm hammock means a low hammock where one out of every five of the dominant canopy plants is a native palm characterized by the state that palm, *Thrinax radiata*.

Parcel of land means any quantity of land and water capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Parks means publicly owned land used for active or passive recreational purposes or as a refuge for wildlife.

Permanent residential unit means a dwelling unit that is designed for, and capable of, serving as a residence for a full housekeeping unit which includes a kitchen composed of at least a refrigerator and stove.

Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Pineland means an upland forest community with an open canopy dominated by the native slash pine, *Pinus elliottii* var. *densa*. Plant species that are commonly present include, but are not limited to:

Byrsonima cuneata	Locust berry
Cassytha filiformis	Love vine
Coccothrinax argentata	Silver palm
Crossopetalum ilicifolium	Christmas berry

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Croton linearis	Pineland croton
Morinda royoc	Yellow root
Pinus elliottii	Slash pine
Randia aculeata	White indigo berry
Thrinax morrisii	Keys thatch palm
Sorghastrum secundum	Indian grass
Serenoa repens	Saw palmetto

Plan or this plan means the Monroe County Comprehensive Plan, which constitutes the required elements of the county's comprehensive plan adopted pursuant to F.S. § 163.3177.

Planning area means one of the 43 planning area units described in volume I of the Monroe County Comprehensive Plan.

Platted lot means a lot that is identified on a plat that was approved by the board of county commissioners and duly recorded.

Predevelopment condition for stormwater runoff means topography, vegetation, rate, volume, direction and pollution load of surface water or groundwater flow existing immediately prior to development.

Prevailing roadway and traffic conditions means those conditions that influence road capacity, including two general groups: those that are established by the physical feature of the roadway, and those that are dependent on the nature of traffic on the roadway.

Private airport means an area used for landing and takeoff of aircraft that is either publicly or privately owned, and which is used primarily by the licensee but which is available for use by invitation of the licensee. Services may be provided if authorized by the Florida Department of Transportation. The term includes Sugarloaf Airport, Tavernaero Airport Park, Inc., Summerland Key Airport, Ocean Reef Airport, or other airport or airfield to be constructed in the county that meets these requirements.

Private club means a business establishment providing food, liquor, entertainment or recreational opportunities on a members-only and guest-only basis.

Project means improvements to a site proposed on a particular land area that may be part of a common plan of development. Improvements shall include the subdivision of land.

Project initiation means all acts antecedent to actual construction activities and includes permit applications and development.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Public airport means an area used for landing and takeoff of aircraft; is either publicly or privately owned; and which meets minimum safety and service standards and is open for use by the public. The term includes Key West International, Marathon Airport or other public airport or airfield to be constructed in the county that meets these requirements.

Public airport uses means fixed and rotary-wing aircraft operations together with retail sales and service operations related to public or general aviation, including aircraft sales, repair and storage, commercial shipping and storage, restaurants designed to serve aviation passengers and other public uses.

Public buildings means office and service buildings, uses or facilities owned or operated by a governmental agency, including publicly and privately owned utilities, which are compatible with or provide services to the immediate vicinity in which the building is located.

Rate means volume per unit of time.

Receiving body of water means a water body, watercourse, or wetland to which surface or discharge water flows.

Recharge means refilling an aquifer by rainfall and infiltration either naturally or artificially.

Record drawing, stormwater management, means the system plans specifying the locations, dimensions, elevations, capacities, and capabilities of structures or facilities for controlling runoff as they have been constructed as submitted by the project contractor or engineer, as appropriate.

Recreational rental use means a public or private area providing rental facilities for overnight or short-term occupancy, including campgrounds (commercial), camps (day or youth), and recreational vehicle parks.

Recreational vehicle means a vehicle or portable structure built on a chassis and designed as a dwelling for travel, recreation or vacation for tenancies of less than six months; which has a transportable body width not exceeding eight feet and a length not exceeding 35 feet; and which does not qualify as mobile home; and:

- (1) The travel trailer or park trailer has been placed in a travel trailer park, campground or a storage yard;
- (2) The travel trailer or park trailer has current licenses required for highway travel; and
- (3) The travel trailer or park trailer is highway ready. This means that the travel trailer or park trailer is on its wheels or internal jacking system and attached to this site only by the quick disconnect-type utilities commonly used in campgrounds and trailer parks or by security devices. No permanent additions such as state rooms shall be permitted.

Regionally important plant species means those native plant species identified as endemic, uncommon, or rare in the county's regionally important plant species list maintained by the Department of Environmental Resources or as identified by the Center for Plant Conservation, the Florida Natural Areas Inventory, or the Florida Committee on Rare and Endangered Plants and Animals.

Residence or residential use, as applied to any lot, plat, parcel, tract, area or building, means used or intended for use exclusively for dwelling purposes, but not including hotel rooms.

Resource extraction means the dredging, digging, extraction, mining and quarrying of lime rock, sand, gravel or minerals for commercial purposes.

Retention means the storage of a specific volume of stormwater runoff within a defined area having no direct discharge into receiving waters; included as examples are systems which discharge through percolation, filtered bleed-down and evaporation processes.

Road, arterial, means a route providing service that is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Road capacity means the maximum rate of flow at which vehicles can be reasonably expected to traverse a point or uniform segment of a lane or roadway during a specified time period under prevailing roadway, traffic, and control conditions, usually expressed as vehicles per hour.

Road, collector, means a route providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

Road, frontage, means a public street or road auxiliary to, and located alongside, abutting and parallel to a highway for purposes of maintaining local road continuity and for control of access.

Road, local, means a route providing service that is of relatively low average traffic volume, short average trip length or minimal through-traffic movement and high land access for abutting property.

Road network system, major, means all arterial, collector and frontage roads within the county, including new arterial, collector and frontage roads necessitated by new land development activity generating traffic.

Room, hotel or motel means a unit in a public lodging establishment as defined by F.S. § 509.013(4)(a) intended for transient lodging only for periods not exceeding 30 days. Transient occupancy shall conform to the definition contained in F.S. § 509.013(12) as to transient occupancy. For the purposes of density restriction under this chapter:

- (1) Hotel or motel room may be a single room or a suite and may include a kitchenette but no more than 1½ bathrooms and one bedroom and one other living area.
- (2) All entrances to a hotel or motel room shall share the same key or means of controlling access so that the hotel or motel room as defined herein is not divisible into separately rentable units.
- (3) Suites containing more than one bedroom and 1½ baths may be constructed; however, each bedroom/bath combination shall be considered a hotel/motel unit.

Runoff coefficient (c) means the standardized factor from which runoff can be calculated.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Salt marsh and buttonwood wetlands.

- (1) The term "salt marsh and button wetlands" means two plant associations that are sometimes collectively or individually referred to as the "transitional wetland zone." The salt marsh community is a wetland area subject to tidal influence, and the vegetation is dominated by nonwoody groundcovers and grasses. The vegetation may include, but is not limited to, the following nonwoody species:

Sporobolus virginicus	Dropseed
Batis maritima	Saltwort
Distichlis spicata	Salt grass
Monanthochloe	Key grass

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Salicornia spp.	Glasswort
Sesuvium portulacastrum	Sea purslane
Spartina spartinae	Cordgrass
Fimbristylis castanea	Chestnut sedge

- (2) Woody vegetation that may be present includes the three species of mangroves, as well as buttonwood (*Conocarpus erectus*); however, the salt marsh community is distinguished by the dominance of nonwoody plants, and the woody species have a coverage of less than 40 percent. The salt marsh community may be associated and intermixed with areas of almost bare ground on which the vegetation may be limited to mats of periphyton.
- (3) The buttonwood wetland is a wetland that is usually present in the more landward zone of the transitional wetland area, and may intermix with more upland communities. The vegetation may include, but is not limited to, the following species:

Sporobolus virginicus	Dropseed
Borrichia spp.	Sea oxeye daisy
Bumelia celastrina	Saffron plum
Coccoloba uvifera	Sea grape
Conocarpus erectus	Buttonwood
Erithalis fruticosa	Black torch
Fimbristylis castanea	Chestnut sedge
Jacquinia keyensis	Joewood

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Lycium Carolinianum	Christmas berry
Maytenus phyllanthoides	Mayten
Spartina spartinae	Cordgrass

- (4) The buttonwood wetland is distinguished from the salt marsh wetland by the dominance of buttonwood trees, usually occurring as an open stand that permits the growth of an understory of groundcovers and shrubs. The buttonwood wetland is, in turn, distinguished from more upland communities by the presence of graminoids and halophytic groundcovers under its open canopy, and generally by the lack of an appreciable layer of humus and leaf litter. As referenced throughout these regulations, "salt marsh and buttonwood" habitat refers collectively and individually to "salt marsh" and "buttonwood" habitats for the purpose of determining regulatory requirements.

Scarified land means an area that is cleared of native vegetation, or topographically modified such that the land is not currently in a successional sequence leading to the establishment of the vegetative communities that were cleared or disturbed.

Seasonal residential unit is a transient residential unit with one or more rooms, toilet facilities, and kitchen physically arranged to create a housekeeping establishment for occupancy by one family, with tenancies not to exceed 180 consecutive days.

Sediment means solid material that subsides to the bottom of a water body.

Setback means an open space at grade between a building and the property line of the lot on which the building or structure is located, unoccupied and unobstructed from the ground upward, except for fences or as otherwise provided in these regulations. In measuring a setback, the horizontal distance between the lot line and the furthestmost projection of the main building shall be used. Every required front setback from a street shall be measured at right angles (90 degrees) from the property line.

Sewage disposal facility means any plant, system or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, and without limiting the generality of the foregoing definition shall include treatment plants, pumping stations, intercepting sewers, pressure lines, mains, and all necessary appurtenances and equipment, and shall include all property, rights, easements and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

Shopping center means a group of commercial retail and/or professional services establishments planned, developed and managed as a unit, with off-street parking provided on the property.

Shoreline means the interface between land and water, extending seaward of mean high water to include fringing mangroves and adjacent shelf and may also include a transitional zone landward of mean high water (MHW).

- (1) Altered shorelines are generally located directly along dredged canals, basins and abutting channels and have been modified to such a degree that the shoreline no longer exhibits those functions typical of natural shorelines including filtration, nutrient uptake, shoreline stabilization, storm surge abatement, and provisions of habitat for wildlife and fisheries. A shoreline is not

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

altered unless the functional characteristics of both the transitional zone and the zone seaward of mean high water have been altered.

- (2) Unaltered shorelines are generally located along natural nondredged waterways and open water. These shorelines continue to exhibit the natural functions cited above even though fill or rip-rap may be present either above or below MHW.

Sign means any object, device, display or structure or part thereof situated outdoors or indoors that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service event or location and by any means including words, letters, figures, designs, symbols, fixtures, colors, or projected images. Signs do not include:

- (1) The flag or emblem of any nation, organization of nations, state, city, or fraternal, religious, or civic organizations;
- (2) Merchandise that is not otherwise incorporated into a sign structure;
- (3) Models or products incorporated in a window display;
- (4) Works of art that do not contain advertising messages and in no way identify a product, use or service; or
- (5) Scoreboards located on athletic fields.

Site plan means information submitted by an applicant that shall identify all development activities, including principal and accessory uses within the property boundaries.

Specimen tree means any tree with a diameter at breast height that is 75 percent of the record tree of the same species for the state.

Spreader swale means a ditch positioned parallel to the receiving water body that allows for indirect discharge of stormwater in excess of the retained or detained volume.

Storage area means a nonresidential use that predominately involves the outside storage of vehicles, recreational vehicles, boats, campers, equipment, goods and materials for more than 24 hours. It includes contractor's equipment storage yards and does not include outdoor retail sales. This is considered a light industrial use and does not include waste transfer stations, junkyards, or other heavy industrial uses.

Storm event means the occurrence of a rainfall of specified frequency and duration, e.g. 25-year, or three-day storm.

Stormwater management plan means the detailed analysis describing how the rainfall control system for the proposed development has been planned and designed, and will be constructed to meet the requirements of this chapter.

Stormwater management system means the natural and constructed features of the property that are designed to treat, collect, convey, channel, hold, inhibit or divert the movement of surface water.

Stormwater runoff means that volume of rainfall that does not percolate into the ground, nor evaporates, nor is intercepted before reaching the stormwater management system.

Structure means anything constructed, installed or portable, the use of which requires a location on a parcel of land. It includes a movable building that can be used for housing, business, commercial, agricultural or office purposes, either temporarily or permanently. The term "structure" also includes roads, walkways, paths, fences, swimming pools, tennis courts, poles, pipelines, transmission lines, tracks, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, off-shore swimming platforms and other accessory construction.

Subdistrict means those geographical areas as identified on the appendix to the ordinance from which this definition is derived.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Submerged land means land below the mean high tide line and/or the mean high water line of an upland water body.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the predestruction market value of the structure, as determined by the office of the tax assessor of the county, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are necessary solely to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places, the state inventory of historic places, or any inventory of local historic places.

Substantial improvement, cumulative, means that improvement which is not substantial by itself but, when added to all prior nonsubstantial improvements to the original structure, would cause all the improvements to be substantial if permitted at one time. All applications deemed substantial or nonsubstantial must be approved by the FEMA coordinator, director of growth management, deputy director of growth management, or the building official director.

Surface water. See "Water body."

Swale means a shallow constructed ditch with the bottom above the water table.

Temporary uses include those uses that are required for a period certain in the construction phase of development, are uniquely seasonal in nature, including other activities of a similar nature such as Christmas tree sales, temporary emergency shelters, concerts, carnivals and tent meetings.

Threatened and endangered species means plant or animal species listed as such under the provisions of the Endangered Species Act, 16 USC 1531 et seq. and/or F.S. § 581.185, and the Florida Endangered and Threatened Special Act, F.S. § 372.072, as illustrated on the Threatened and Endangered Plant and Animal Maps maintained by the department of planning.

Tourist housing use or unit means a dwelling unit used as transient housing for tenancies of less than 28 days duration, such as a hotel or motel, public lodging establishment, roominghouse, vacation rental, room, or space for parking a recreational vehicle or travel trailer or units that are advertised and held out to the public for such use. Tourist housing use shall include the rental, lease, sublease, or assignment of existing dwelling units for tenancies of less than 28 days duration.

Transient residential unit means a dwelling unit used for transient housing such as hotel or motel room, seasonal residential unit, or space for parking a recreational vehicle or travel trailer.

Transitional recreational vehicle unit is a recreational vehicle unit identified for conversion from a recreational vehicle to a seasonal residential unit within an approved development agreement with Monroe County establishing a phased transition from a traditional recreational vehicle park to a seasonal residential use.

Transitional habitat means the salt marsh and buttonwood association.

Trip means a single or uni-directional movement with either the origin or destination existing or entering inside the study site.

Trip generation means the attraction or production of trips caused by a given type of land development.

Ultra-light aircraft means any heavier-than-air, motorized aircraft that meets the criteria for maximum weight, fuel capacity, and air speed established for such aircraft by the Federal Aviation Administration.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Vacation rental or unit means an attached or detached dwelling unit that is rented, leased or assigned for tenancies of less than 28 days duration. Vacation rental use does not include hotels, motels, and RV spaces, which are specifically addressed in each district.

Visual runway means a defined area for landing and takeoff of aircraft that is intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military services-approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Wastewater nutrient reduction cluster systems means wastewater treatment systems that are designed to serve multiple residences that are located on more than one lot. These systems are permitted by the Florida Department of Health.

Wastewater treatment collection system means the use of land and its above ground installed appurtenances related to the collection and transmission of wastewater to a treatment facility located on another lot or parcel.

Wastewater treatment facility means the use of land and its appurtenances for the treatment of wastewater collected predominately from other lots or parcels.

Water or community water means all water on or beneath the surface of the ground, including the water in any watercourse, water body or wetland.

Water access walkway means a structure built and used exclusively for access to the water for leisure activities such as fishing, swimming, or observation, but by its design may not be used as a dock. Water access walkways shall conform to the design criteria in section 118-7.

Water at least four feet below mean sea level at mean low tide means locations that will not have a significant adverse impact on off-shore resources of particular importance. For the purposes of this definition, "off-shore resources of particular importance" means hard coral bottoms, habitat of state or federal threatened and endangered species, shallow water areas with natural marine communities with depths at mean low tide of less than four feet and all designated aquatic preserves under F.S. ch. 258, pt. II (F.S. § 258.35 et seq.).

Water body or surface water means a natural or artificial watercourse, pond, bay, and coastal waters of the county extending to a landward limit defined by F.A.C. 17-3-1.400, and F.S. § 403.031.

Water-dependent facility means a use that is functionally dependent on actual access to open waters.

Water detention facility means a stormwater management facility that provides for the delay of movement or flow of a specified volume of stormwater for a specified period of time.

Water retention facility means a stormwater management facility that provides for storage of a specified volume of stormwater without discharge from the retention structure.

Water table means the boundary between the zone of saturation and the zone of aeration; it varies with such factors as tide and the amount of rainfall.

Watercourse means a channel, canal or streambed, either natural or manmade, which is involved in the accommodation of floodwaters.

Watershed means a catchment area that is otherwise draining to a watercourse or contributing flow to a body of water.

Wet detention means the delay of stormwater runoff prior to discharge into receiving waters in a structure with a bottom elevation below the water table or control elevation.

Wet retention means the prevention of stormwater runoff from direct discharge into receiving waters in a structure with a bottom elevation below the water table or control elevation.

PART II - LAND DEVELOPMENT

Chapter 101 GENERAL PROVISIONS

Wet season water table means the groundwater level during the time of year when the greatest amount of rainfall normally occurs.

Yard means an open space at grade that is the minimum required setback between a structure or other manmade obstruction and the adjoining lot lines unoccupied and unobstructed from the ground upward, except as may be specifically permitted.

Yard, front, means a required open space on a lot that extends across the front of a lot and is generally adjacent the public right-of-way, the depth of which is measured perpendicularly to the front lot line. On corner lots or double frontage lots, each yard frontage on a street shall be a front yard.

Yard, rear, means a required open space on a lot that extends along the full length of the rear lot line, the depth of which is measured perpendicularly to the rear lot line.

Yard, side, means a required open space on a lot that extends along the full length of the side lot line between the required front yard and required rear yard, the depth of which is measured perpendicularly to the side lot line. In the case of double frontage lots, side yards shall extend from the rear lines of the required front yards. In the case of corner lots, yards remaining after front yards have been established on both frontages shall be considered side yards.

(Code 1979, § 9.5-4; Ord. No. 33-1986, § 3-101; Ord. No. 40-1987, §§ 5, 6, 8—11, 14, 15, 18, 19, 56, 103, 140; Ord. No. 15-1989, § 2(2); Ord. No. 19-1989, § 1; Ord. No. 21-1989, § 1; Amd. of 1-2-1996; Ord. No. 36-1997, § 1; Ord. No. 4-1997, § 2; Ord. No. 12-2000, § 1; Ord. No. 44-2000, § 1; Ord. No. 47-2000, § 1; Ord. No. 53-2000, § 1; Ord. No. 003-2002, § 1; Ord. No. 007-2003, § 1; Ord. No. 015-2003, § 1; Ord. No. 030-2003, §§ 1—3; Ord. No. 036-2004, § 1; Ord. No. 030-2005, §§ 1, 2; Ord. No. 035-2005, § 2; Ord. No. 017-2005, §§ 1—5; Ord. No. 001-2006, § 2; Ord. No. 016-2006, § 1; Ord. No. 037-2006, § 1; Ord. No. 001-2008, § 1; [Ord. No. 003-2011, § 2](#) ; [Ord. No. 016-2011, § 1](#))

July 11, 2013

I hereby authorize Barton W. Smith, Esq. be listed as authorized agent
(Name of Agent)

for Longstock II, LLC for the application submittal for
(Name of Property Owner(s) the Applicant(s))

Property described as Lot: _____, Block _____,

Subdivision: _____, Key (island): Stock Island

and Real Estate number: 00123760-000200
00123720-000100
00123720-000200.

This authorization becomes effective on the date this affidavit is notarized and shall remain in effect until terminated by the undersigned. This authorization acts as a durable power of attorney only for the purposes stated.

The undersigned understands the liabilities involved in the granting of this agency and accepts full responsibility (thus holding Monroe County harmless) for any and all of the actions of the agent named, related to the acquisition of approvals/permits for the aforementioned applicant.

Note: Authorization is needed from each owner of the subject property. Therefore, one or more authorization forms must be submitted with the application if there are multiple owners.

Property Owner(s) Signature

Matthew Strunk
Matthew Strunk, Manager

NOTARY:
STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 11 day of July, 2013.

MATTHEW STRUNK is X personally known _____ produced identification

(_____) Type of Identification, did / did not take an oath.

Jana Carter
Notary

